

LOCAL RAIL SERVICE ASSISTANCE REAUTHORIZATION
ACT OF 1988

AUGUST 9, 1988.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2570]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2570) to authorize appropriations for the Local Rail Service Assistance Program, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, would reauthorize funding the Local Rail Service Assistance Program (LRSA) for three years, in the sum of \$25 million for fiscal year (FY) 1989, \$25 million for FY 1990, and \$25 million for FY 1991. The bill also would modify the Department of Transportation Act as it relates to the Federal share of the cost of Rail Service Assistance.

BACKGROUND AND NEEDS

LRSA was established by the Regional Rail Reorganization Act of 1973 and originally was designed to provide financial support to states for the continuation of rail freight service on light density rail lines excluded from the Conrail system. The intent was to reduce hardships expected to be faced by shippers and local communities in the Northeast upon the abandonment of thousands of miles of railroad. The Railroad Revitalization and Regulatory Reform Act of 1976 expanded the program to include all States. The Local Rail Service Assistance Act of 1978 amended the program to provide capital assistance for rehabilitation and improve-

ments before, rather than after, abandonment. In 1981 the Northeast Rail Service Act (NERSA) further amended the program to exclude the use of funds for operating subsidies.

NERSA authorized \$40 million for FY 1982, \$44 million for FY 1983, and \$48 million for FY 1984. The Omnibus Reconciliation Act of 1985 authorized \$12 million for FY 1986, \$10 million for FY 1987, and \$8 million for FY 1988, and allowed for the carryover of some unexpended funds through FY 1988.

Amounts appropriated for LRSA have decreased steadily in recent years, from \$40 million in FY 1981 to \$10 million and \$9,600,000 in FY 1987 and FY 1988, respectively.

Under the present LRSA program, funds may be used for acquisition of rail lines which have received Interstate Commerce Commission abandonment authorization; rehabilitation of light density rail freight lines; and rail facility construction, including new connections and intermodal terminals with respect to light density lines.

The Federal share of the costs of rail service assistance currently is limited to 70 percent. Non-Federal matching shares may be provided in cash, property, trackage rights, forgiveness of taxes, or State employee salaries.

Funding under LRSA is available on an entitlement and discretionary basis. Until FY 1987, entitlement was based on a statutory rail mileage formula. Congress eliminated the formula for FY 1987 and FY 1988 and appropriated entitlements of \$50,000 for FY 1987 and \$48,000 for FY 1988 for each of the 50 States. Entitlement funding may be used by States for planning or project purposes; discretionary funds may be used for project purposes only. All of the FY 1988 discretionary funding was earmarked for specific projects in 13 States. The Federal Railroad Administration [FRA] administers the program and is obligated to consider a number of statutory criteria in allocating discretionary funding.

The Committee recognizes that though considerable efforts and accomplishments have been made as a result of LRSA, many of the problems this program was designed to mitigate continue to exist. Further, the Committee believes that while LRSA projects must be sufficiently viable to attract non-Federal financial support, these projects would not be able to advance without some Federal funding. The economic benefits of these LRSA projects to communities, shippers, farmers, and others warrant continuation of this program.

LEGISLATIVE HISTORY

The Surface Transportation Subcommittee held a hearing on May 25, 1988, on reauthorization of LRSA. During the hearing chaired by Senator Exon, the subcommittee heard testimony on the need to continue LRSA on the effectiveness of the present programs, and on legislative proposals, including S. 2174 and S. 2195 (introduced by Senators Burdick and Harkin, respectively), which provide for reauthorization of LRSA. Witnesses who testified at the hearing included Senators Burdick and Harkin, representatives of the FRA, and two panels, the first representing State and shipper

interests, and the second representing the railroad industry and rail labor.

On June 17, 1988, Senator Exon introduced S. 2570, the Local Rail Service Assistance Reauthorization Act of 1988, which is co-sponsored by Senators Burdick, Harkin, Rockefeller, Pressler, Gore, Adams, and Kerry, among others.

On June 28, 1988, the Committee met in open executive session to consider S. 2570. This bill was ordered reported, without objection.

SUMMARY OF MAJOR PROVISIONS

This legislation seeks to reauthorize LRSA at levels sufficient to provide modest financial assistance to all States in order to minimize the adverse effects of rail abandonments and address the critical rehabilitation needs of light density rail freight lines and facilities. This bill does not reflect the administration's opposition to reauthorizing funds for LRSA.

As reported, S. 2570 would: (1) reauthorize funding for LRSA in the sum of \$25 million for FY 1989, \$25 million for FY 1990, and \$25 million for FY 1991; and (2) reduce the amount of the Federal share of the costs of any rail service assistance program from the present level of 70 percent to 60 percent. The State/non-Federal share of the costs may continue to be provided in cash, property, trackage rights, forgiveness of taxes, or State employee salaries.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following costs estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 14, 1988.

HON. ERNEST F. HOLLINGS,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2570, the Local Rail Service Assistance Reauthorization Act of 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2570.
2. Bill title: Local Rail Service Assistance Reauthorization Act of 1988.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 28, 1988.

4. Bill purpose: S. 2570 would authorize the appropriation of \$25 million for each of the fiscal years 1989 through 1991 for the local rail service assistance program. The current year's appropriation is \$9.6 million. The bill would also reduce the federal share of the cost of state programs from 70 percent to 60 percent.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
Authorization level.....	25	25	25		
Estimated outlays.....	10	20	25	15	5

- The costs of this bill fall within budget function 400.
- Basis of estimate: The CBO assumed that the full amounts authorized would be appropriated. Outlay estimates are based on historical spending patterns.
6. Estimated cost to state and local governments: S. 2570 would reduce the federal matching rate for this program to 60 percent.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Marjorie Miller.
10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

This legislation provides an authorization of appropriations for FY 1989, FY 1990, and FY 1991 to enable FRA to continue to provide grant assistance to States for rail planning and for support of service on rail branchlines. Given the nature of a grant program, it is difficult to gauge the number of shippers, communities, and/or persons who potentially would benefit from this assistance. However, as this legislation is simply reauthorizing an existing program, the number of persons covered should be consistent with current levels.

ECONOMIC IMPACT

- Section 2 of this bill authorizes appropriations of \$25 million for FY 1989, \$25 million for FY 1990, and \$25 million for FY 1991 for LRSA. These funding levels are not expected to have an inflationary impact on the Nation's economy.
- Section 3, which reduces the amount of the Federal matching share of the costs of any rail service assistance program, will increase the effectiveness of Federal funds.

PRIVACY

This legislation will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

This legislation reauthorizes an existing FRA program. Therefore, there should be no change in any paperwork requirements.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section provides that the legislation is to be entitled the "Local Rail Service Assistance Reauthorization Act of 1988".

SECTION 2—AUTHORIZATION FOR APPROPRIATIONS

This section amends subsection (q) of section 5 of the Department of Transportation Act to authorize \$25 million for the fiscal year ending September 30, 1989, \$25 million for the fiscal year ending September 30, 1990, and \$25 million for the fiscal year ending September 30, 1991.

This section recognizes that an elimination of funding for LRSA, as proposed by the administration, in all likelihood would mean the end of the Federal financial role in rehabilitation of America's railroads. The Committee believes that limited LRSA funding, given current budget constraints, continues to be an appropriate investment in our nation's infrastructure.

SECTION 3—FEDERAL SHARE OF COSTS

This section amends section 5(g) of the Department of Transportation Act by reducing the amount of the Federal share of the costs of any rail service assistance program to 60 percent from 70 percent.

The Committee views this reduction in the Federal share as a way to achieve more with the limited Federal funding and to further encourage, by the increased matching share requirements, that projects supported by LRSA are proven in advance to be viable and of significant economic benefit.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in *roman*).

THE DEPARTMENT OF TRANSPORTATION ACT

Section 5 of that Act

RAIL SERVICES

SEC. 5. (a) * * *
(b) through (f) * * *

(g) The Federal share of the costs of any rail service assistance program shall be **[70 per centum]** *60 per centum*. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.

(h) through (p) * * *

(q) There are authorized to be appropriated to the Secretary for the purposes of subsections (f) through (p) of this section not to exceed \$360,000,000, of which \$40,000,000 shall be made available for the fiscal year ending September 30, 1982, \$44,000,000 shall be made available for the fiscal year ending September 30, 1983 and \$48,000,000 shall be made available for the fiscal year ending September 30, 1984. Of the funds authorized to be appropriated under this subsection, there are authorized to be appropriated not to exceed \$12,000,000 for the fiscal year ending September 30, 1986, not to exceed \$10,000,000 for the fiscal year ending September 30, 1987, **[and]** not to exceed \$8,000,000 for the fiscal year ending September 30, 1988**[.]**, *not to exceed \$25,000,000 for the fiscal year ending September 30, 1989, not to exceed \$25,000,000 for the fiscal year ending September 30, 1990, and not to exceed \$25,000,000 for the fiscal year ending September 30, 1991*. In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section. Such sums as are appropriated are authorized to remain available until expended. No funds are authorized to be appropriated under this subsection for any period after September 30, **[1988]** *1991*.

100TH CONGRESS }
2d Session

SENATE

{ REPORT
100-466

NATIONAL BUREAU OF STANDARDS
AUTHORIZATION ACT FOR
FISCAL YEAR 1989

Mr. HOLLINGS, from the Committee on Commerce, Science,
and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

ON

S. 2701



August 9, 1988.—Ordered to be printed

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NATIONAL BUREAU OF STANDARDS AUTHORIZATION
ACT FOR FISCAL YEAR 1989

AUGUST 9, 1988.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2701]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 2701) to authorize appropriations for the National Bureau of Standards for fiscal year 1989, and for other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, authorizes fiscal year (FY) 1989 appropriations for the National Bureau of Standards (NBS) of \$158,039,000; authorizes FY 1989 appropriations for two other Department of Commerce (DOC) technology programs, the Office of Productivity, Technology, and Innovation (OPTI) and the Japanese Technical Literature Program; consolidates existing DOC technology agencies into a new Technology Administration, headed by a new Under Secretary of Commerce for Technology; converts DOC's National Technical Information Service (NTIS) into a Government corporation with the same mission and name; and makes several miscellaneous amendments to the Stevenson-Wydler Technology Innovation Act of 1980.

BACKGROUND AND NEEDS

The technology programs of DOC play an important role in supporting U.S. industrial competitiveness.

NBS is the one Federal laboratory with an explicit mission to assist U.S. industry. It specializes in precise measurements and

precise quality control techniques—techniques which are vital for high-quality, low-cost production of everything from steel to superconductors and biotechnology products. NBS also works with industry to develop new generic manufacturing and process technology, and increasingly shares its technical expertise with small- and medium-sized manufacturers.

OPTI is a policy office which analyzes technology and innovation issues, works with States and private industry to formulate ways to improve business productivity, and analyzes and implements Federal policy in such areas as technology transfer and voluntary metric conversion.

NTIS collects and sells, on a cost-reimbursable basis, unclassified technical reports written by Federal agencies and laboratories. It thus transfers taxpayers-supported research to the private sector. NTIS also collects and, in selective cases, translates important foreign technical reports.

While NTIS performs important functions, its current legal charter has limited its ability to upgrade equipment and facilities. A February 1987 report by the non-partisan National Academy of Public Administration "An Assessment of Alternative Organizational Structures for the National Technical Information Service" concluded that the funding provisions under which NTIS currently operates are "fragmentary and consequently do not adequately defined the extent or limits or NTIS' discretion in utilizing its receipts." Currently, it is unclear whether NTIS has the legal authority to use receipts from sales to buy modern equipment or make other investments to improve services. NTIS also is currently denied the opportunity to invest its receipts in U.S. Government securities, preventing it from obtaining interest that could be used to develop new products and services.

The Japanese Technical Literature Program recognizes that Japan now performs a great deal of research and innovation, much of it in government-supported laboratories not readily accessible to most American companies. The Japanese Technical Literature Act of 1986 (P.L. 99-382) directs the Secretary of Commerce, through NTIS and other DOC agencies, to collect, analyze, and in selective cases translate Japanese technical literature, particularly unpublished government report. DOC coordinates this program through an Office of Japanese Technical Literature.

LEGISLATIVE HISTORY

The Subcommittee on Science, Technology, and Space held a hearing on DOC technology programs on May 20. The Subcommittee heard from both DOC and outside witnesses.

On June 28, in open executive session the Committee considered an original bill and ordered the bill reported favorably.

SUMMARY OF MAJOR PROVISIONS

1. Title I would authorize FY 1989 appropriations for NBS at \$158,039,000, an increase of \$13,256,000 or 9 percent over the FY 1988 level of \$144,783,000. This title also would authorize FY 1989 appropriations of \$2,000,000 for the Office of Technology Policy (OTP), the new name that Title II of the bill proposes to give to

OPTI: \$1,000,000 for the office of the new Under Secretary for Technology created under Title II; and \$1,000,000 for activities under the Japanese Technical Literature Program.

2. Title II would amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a new DOC Technology Administration, headed by a new Under Secretary of Commerce for Technology. The Administration would include NBS, NTIS, OTP, and such other agencies, programs, and activities of DOC as the Secretary of Commerce determines.

3. Title III would convert the existing NTIS into a new government corporation of the same name. NTIS would continue in DOC as a self-supporting clearinghouse to collect and sell (on a cost-reimbursable basis) unclassified Government technical reports.

4. Title IV contains miscellaneous amendments to the Stevenson-Wydler Technology Innovation Act's provisions regarding cooperation between Federal laboratories and businesses.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 5, 1988.

Hon. ERNEST F. HOLLINGS,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for a bill to authorize appropriations for the National Bureau of Standards for fiscal year 1989, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.
2. Bill title: A bill to authorize appropriations for the National Bureau of Standards for fiscal year 1989, and for other purposes.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 28, 1988.
4. Bill purpose: The bill would authorize appropriations for fiscal year 1989 for the various programs of the National Bureau of Standards (NBS) and other programs within the Department of Commerce. In addition to the specific amounts provided, the bill would authorize for fiscal year 1989 such sums as may be necessary for adjustments in salary, retirement, and other employee benefits that may be provided for by law. The bill also contains a number of

other provisions pertaining to activities of the NBS and the Department of Commerce.

For fiscal year 1989, the total amount specifically authorized in the bill for the NBS is \$158 million—the same as the President's request.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
Authorizations:					
Specified (Function 370):					
NBS	158.0				
Other Commerce programs	4.0				
Subtotal	162.0				
Estimated (Function 920)	2.5				
Total estimated authorizations	164.5				
Estimated outlays	127.8	33.2	3.5		

Basis of estimate: This estimate assumes that the full amounts authorized will be appropriated prior to the beginning of fiscal year 1989. The increases for salary, retirement and other employee benefits required by law for fiscal year 1989 are estimated consistent with the Concurrent Resolution on the Budget for Fiscal Year 1989 (H. Con. Res. 268). Outlays for new programs are based on historical spending patterns of similar programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 9, 1988, CBO transmitted to the House Committee on Science, Space, and Technology a cost estimate for H.R. 4417, the National Bureau of Standards Authorization Act for Fiscal Year 1989. The authorization levels for NBS are higher in the House bill, and the estimated costs reflect this difference.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

The bill, as reported, would provide authorization of appropriations to NBS and other DOC technology programs for FY 1989 and should not have an inflationary impact on the economy. The bill also would establish a DOC Technology Administration and a new Government corporation known as NTIS.

The bill confers no new regulatory authority on NBS, NTIS, or any other unit of DOC. Implementation of the legislation will not increase Federal regulation of any individuals or businesses, and thus in this respect will not result in increased Federal regulation, economic effect, impact on personal privacy, or additional paper-

work. Converting the existing NTIS from a Government agency into a Government corporation will provide NTIS with new authority to purchase equipment and supplies and therefore will alter the relationship between NTIS and the contractors and suppliers with which it deals. However, all such business relationships will be voluntary.

In terms of paperwork, the bill requires the following reports: an NBS report to Congress making recommendations concerning the appropriate roles of NBS and others in the collection, evaluation, and dissemination of evaluated engineering data; an NBS report on NBS technology transfer accomplishments and plans; and annual reports by the Secretary of Commerce on the operations of the new NTIS.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section states the short title of the bill, the "National Bureau of Standards Authorization Act for Fiscal Year 1989".

TITLE I—NATIONAL BUREAU OF STANDARDS AUTHORIZATION

SECTION 101—AUTHORIZATIONS FOR PROGRAM ACTIVITIES

Subsection (a) authorizes FY 1989 appropriations for the activities of NBS in the following amounts:

- (1) Measurement Research and Standards, \$43,980,000.
- (2) Materials Science and Engineering, \$24,381,000.
- (3) Engineering Measurements and Standards, \$47,230,000.
- (4) Computer Science and Technology, \$10,649,000.
- (5) Technology Services, \$4,000,000.
- (6) Research Support Activities, \$27,799,000.

Subsection (b) provides that of the total of the amounts authorized under subsection (a), \$2,000,000 is authorized only for steel technology; of the total amount authorized under paragraph (3) of subsection (a), \$4,000,000 is authorized only for the Center for Building Technology, and \$6,000,000 is authorized only for the Center for Fire Research; of the amount authorized under paragraph (5) of subsection (a), \$3,500,000 is authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology and \$500,000 is authorized only for the evaluation of non-energy related inventions and related technology extension activities; and of the total amount authorized under paragraph (6) of subsection (a), \$7,500,000 is authorized only for the technical competence fund.

With regard to the Regional Centers, the Committee intends that any funds appropriated for FY 1989 pursuant to the authorization in this bill shall be in addition to any FY 1988 appropriations for the Regional Centers which may be carried over into FY 1989.

The amounts authorized in subsection (a) assume FY 1989 adjustments-to-base of \$3,006,000 and assume the following program increases: chemical measurements and standards, \$1,750,000; high-performance composites, \$500,000; high-temperature superconductors, \$3,000,000; lightwave measurement technology, \$2,000,000; bio-

process engineering, \$1,250,000; computer security, \$2,500,000; and radiation measurements, \$250,000.

Subsection (c) provides transfer authority. Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and this Committee and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer. In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a). However, a full explanation of any such proposed transfer and the reasons therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

SECTION 102—OPT AND UNDER SECRETARY FOR TECHNOLOGY

This section provides additional FY 1989 authorizations of appropriations for two offices established under Title II of the bill—\$1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, and \$2,000,000 for the activities of OTP (currently OPTI).

SECTION 103—JAPANESE TECHNICAL LITERATURE

This section authorizes an additional \$1,000,000 for FY 1989 activities to carry out the purposes of the Japanese Technical Literature Act of 1986.

SECTION 104—SALARY ADJUSTMENTS

This section provides that in addition to any sums otherwise authorized by this title of the bill, there are authorized to be appropriated to the Secretary for FY 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SECTION 105—AVAILABILITY OF APPROPRIATIONS

This section provides that appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SECTION 106—RESEARCH INFORMATION CENTER

This section provides that the NBS Research Information Center shall be maintained as a governmental activity.

SECTION 107—TECHNICAL SERVICES

This section states that in addition to such other technology services and technology extension activities which may be mandated or authorized by law, and in order to help improve the use of technol-

ogy by small- and medium-sized industrial firms within the United States, the Director of NBS, as appropriate, shall—

(1) work directly with States, local governments, and other appropriate organizations to provide for extended distribution of Standard Reference Materials, Standard Reference Data, calibrations, and related technical services and to help transfer other expertise and technology to the States and to small businesses and other businesses within the States;

(2) evaluate those inventions from small businesses or individuals which have a significant potential for improving competitiveness;

(3) provide support for workshops on technical and entrepreneurial topics and share information developed through the Malcolm Baldrige Quality Award Program;

(4) work with the Federal Laboratory Consortium and other agencies to improve State and businesses access to local Federal laboratories; and

(5) work with other Federal agencies to provide technical and related assistance to the States and businesses within the States.

The Committee believes that NBS has valuable technical services and expertise which can and should be transferred to the States and, through the States, to U.S. companies. NBS should undertake these activities only to the extent feasible and permitted by funding. In addition, the Committee directs NBS to take steps to ensure, as appropriate, that these activities do not compete with technical services offered by the private sector.

SECTION 108—EVALUATED ENGINEERING DATA STUDY

This section directs that within 6 months after the date of enactment of this legislation the NBS Director shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of NBS, other government agencies, professional societies, and trade associations in the collection, evaluation, and dissemination of such data. Such recommendations shall address plans for the dissemination of the results of the study through data bases and plans for incorporating high quality results from other countries.

SECTION 109—TECHNOLOGY TRANSFER

This section directs that within 6 months after the date of enactment, the NBS Director shall report to this Committee and the Committee on Science, Space, and Technology of the House of Representatives on domestic technology transfer accomplishments, trends, and plans since 1986 at NBS. Such report shall describe with examples the types of technology transfer undertaken by NBS, the amount of funds devoted to these efforts, and patent and licensing activities related to NBS research results. The report shall describe the division of technology transfer activities between the Gaithersburg, MD, and Boulder, CO, sites of NBS. The merits of establishing a technology transfer office in Boulder or of giving

the Boulder laboratories increased technology transfer responsibilities shall also be considered.

TITLE II—TECHNOLOGY ADMINISTRATION IN DOC

SECTION 201—TECHNOLOGY ADMINISTRATION

Subsection (a) amends section 5 (a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980. Amended section 5(a) establishes a new Technology Administration within the DOC. The new Administration shall include NBS; NTIS; such other agencies, programs, and activities of the DOC as the Secretary of Commerce determines should be transferred to the Technology Administration; and a policy analysis office, which shall be known as the OTP.

The Committee intends that the new OTP shall perform the same functions as the current OPTI. That is, it shall analyze technology policy issues, undertake projects with the States and the private sector to improve business productivity and stimulate innovation, and continue performing statutory functions in such areas as voluntary metric conversion.

The Committee notes that Departmental Organization Order 35-10, dated April 11, 1988, created a new DOC Office of Federal Technology Management, which, like OPTI, reports to the current Assistant Secretary for Productivity, Technology, and Innovation. The new office carries out DOC's responsibilities under the Federal Technology Transfer Act of 1986 (P.L. 99-502) and Executive Order 12591 ("Facilitating Access to Science and Technology"). The Committee supports the establishment of this new unit and does not intend that the creation of a Technology Administration should abolish or alter the office. The Committee encourages the Secretary to place the Office of Federal Technology Management within the new Technology Administration.

The language in amended section 5(a) allows each Secretary of Commerce to decide for himself or herself whether to include DOC's National Telecommunications and Information Administration (NTIA) within the Technology Administration. In the event such transfer is made, the Secretary shall ensure that telecommunications responsibilities are reflected prominently both in the mission statement of the Technology Administration and in the official duties of the Under Secretary. Further, in the event such transfer is made, the Committee expects that the Department would work with the Congress to change the name of the new Administration to reflect both its technology and telecommunications responsibilities.

The Committee does not intend that the authority under amended section 5(a)(3) be used to transfer any parts, programs, or responsibilities of the National Oceanic and Atmospheric Administration (NOAA) to the new Technology Administration, or that this authority be used to divide, merge, eliminate, or otherwise change NOAA's current organizational unit or functions. NOAA's science and technology programs are an integral and vital part of the agency, and the Committee believes that NOAA could not perform its missions well if these programs were transferred.

Amended section 5(b) directs that the President shall appoint, by and with the advice and consent of the Senate, an Under Secretary

of Commerce for Technology (at level III of the Executive Schedule) and an Assistant Secretary of Commerce for Technology Policy. The latter replaces the existing position of Assistant Secretary for Productivity, Technology, and Innovation.

Subsection (b) provides technical amendments to section 5 of the Stevenson-Wydler Technology Innovation Act of 1980, assigning responsibilities under that Act to the new Under Secretary.

Subsection (c) states that nothing under this reorganization language authorizes DOC to establish an Office of Commercial Space Programs or to place such an Office into the Technology Administration without prior authorization of the Congress. The Committee has received no administration request for legislation to establish or authorize a DOC Office of Commercial Space Programs. Until such a request is submitted, and until Congress has had an opportunity to consider the request, the Committee wishes to make clear that it is not authorizing the establishment of such an Office. Nor does the Committee intend that any such Office, or similar entity, be included within the new Technology Administration.

Subsection (d) provides additional technical and conforming amendments to the Stevenson-Wydler Technology Innovation Act.

Subsection (e) provides that the Assistant Secretary for Productivity, Technology, and Innovation serving at the date when the reorganization becomes effective shall become Acting Assistant Secretary for Technology Policy and shall serve in that position until an Assistant Secretary for Technology Policy takes office.

The Committee intends that the language establishing the new Technology Administration and creating the position of Under Secretary for Technology shall become effective on the date of enactment of this title. The Secretary may appoint an Acting Under Secretary for Technology who may serve until the Under Secretary takes office.

TITLE III—NATIONAL TECHNICAL INFORMATION SERVICE

SECTION 301—SHORT TITLE

This section provides that this title may be cited as the "National Technical Information Act of 1988".

SECTION 302—ESTABLISHMENT OF CORPORATION

This section would amend the Stevenson-Wydler Technology Innovation Act of 1980 by inserting a new section creating a new Government corporation known as the National Technical Information Service ("Service"), under the direction and supervision of the Secretary of Commerce. The new Service would replace the existing NTIS, which is not a Government corporation.

The Service shall be a wholly-owned Government corporation subject to chapter 91 of title 31, U.S. Code (which governs Government corporations), and the Contract Disputes Act of 1978. The Service shall have perpetual succession unless dissolved by an Act of Congress. The Service shall have its principal office in the Washington, DC, metropolitan statistical area and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia. The Service may establish offices in such other place or

places as it may deem necessary or appropriate in the conduct of its business.

The Committee intends that the Secretary of Commerce retain full authority over NTIS and its operations. NTIS will become a Government corporation but will still report to the Secretary. The Committee also intends that the Service be subject to the financial and contracting controls contained in chapter 91 of title 31 (which replaced the Government Corporation Control Act) and the Contract Disputes Act. The Committee further intends that employees of the Service be Federal civil servants, with full civil service benefits and the right to participate in the employee retirement system of their choice.

The new section 18 also would give the Service the following powers:

- (1) to adopt, alter, and use a corporate seal;
- (2) to adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of powers and duties granted to or imposed upon it by law;
- (3) to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, or decedent's estates;
- (4) to appoint and fix the compensation, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, governing classification and rates of pay, of such officers and employees as may be necessary for the conduct of its business; define their authority and duties; and delegate to them such of the powers vested in the Service as the Administrator may decide without regard to any administratively imposed limits on the number or grade of personnel;
- (5) as the Service considers necessary for the efficient conduct of its business subject to the Federal Property and Administrative Services Act of 1949—
 - (A) to acquire by purchase, lease, or donation such real or personal property, including capital equipment and inventories, or any interest therein, using receipts for work or services to be performed by the Service, and from other sources; and
 - (B) sell, lease, or otherwise dispose of such real and personal property;
- (6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes herein authorized;
- (7) to enter into and perform such contracts, leases, cooperative agreements, joint ventures, and other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any foreign countries, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation; except that no contract for the purpose of obtaining funds or other financial instruments or assistance shall be en-

tered into by or on behalf of the service unless expressly authorized in this Act, and none of the activities or functions of the existing NTIS which are not performed by contractors as of May 1, 1988, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute or unless the annual dollar value of any such contract is less than \$100,000 and this Committee and the Committee on Science, Space, and Technology of the House of Representatives have had at least 60 days to review such agreement;

(8) to retain and utilize its revenues and receipts for any of the purposes of the Service, to invest funds of the Service in obligations of the United States, and to use all accrued proceeds from such investment for any of the purposes of the Service, particularly for the purpose of upgrading equipment and facilities;

(9) to levy reasonable fees for its products and services so as to enable the Service to operate on a self-sustaining nonprofit basis without cost to the Treasury (but such fees may be waived for products or services furnished to any agency or instrumentality of the United States, or for publications which are distributed pursuant to reciprocal arrangements for the exchange of information or which are otherwise issued primarily for the general benefit of the public);

(10) to borrow money only from the Federal Financing Bank, in accordance with the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 35 et seq.), and to issue such obligations as it determines to be necessary to carry out the purposes of this section, except that the amount of such obligations outstanding at any one time shall not exceed—

(A) for purposes related to the business of the Service, \$5,000,000; and

(B) for purposes of modernization of equipment, \$5,000,000 during the period from the date of enactment of this bill through September 30, 1990, and \$10,000,000 for the period thereafter),

and except further that the authority provided in this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advanced in appropriations Acts;

(11) to determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this bill and other provisions of law specifically applicable to Government corporations;

(12) to execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

(13) to settle and adjust claims held by the Service against other persons or parties and claims by other persons or parties against the Service, subject to chapter 171 of title 28, United States Code;

(14) to enter into contracts for the performance of part or all of the functions previously performed by the Promotion Division of the existing NTIS; and

(15) to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon the Service.

The Committee intends that the Service have the authority to increase personnel as needed and within its financial capabilities. The Service is further authorized to acquire equipment, inventory, and facility space as needed. The Committee further intends that the Service use this authority prudently and according to a well-defined modernization plan. The Committee directs the Service to keep the Committee informed regarding its plans for modernization.

The Committee has also included authorities which will allow the Service to manage its finances in a business-like way and, when necessary, to purchase new equipment and otherwise make investments to improve products and services. In particular, paragraph (8) of new section 18 allows the Service to invest receipts in U.S. Government securities and to use all accrued proceeds from such investment for any purpose of the Service, including the purchase of new equipment. In addition, paragraph (9) of new section 18 clearly allows the Service to levy reasonable fees. The Committee believes that fees should be kept generally in line with costs, but does not object to small, reasonable increases for the purpose of raising further funds to invest in improved equipment and services.

Finally, paragraph (10) allows the Service to borrow money from the Federal Financing Bank. The Committee can envision circumstances in which prudent borrowing is an appropriate, business-like way to finance purchases of new equipment or to cope with unexpected operating difficulties, such as those caused by a sharp recession. However, the Committee has placed strict dollar limits on this borrowing. Furthermore, in accordance with section 401(a) of the Congressional Budget Act of 1974, the bill specifies that this borrowing authority shall be effective during any fiscal year only to such extent and in such amounts as are provided in advance in appropriations Acts.

The Committee intends that the Service use this borrowing authority prudently and only in accordance with a well-designed business plan. The Committee further intends that the Service not use this authority to borrow funds for the purpose of artificially reducing product fees or otherwise subsidizing the price of the Service's materials or services.

The new section 18 further provides that the management of the Service shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be compensated at the rate provided in level IV of the Executive Schedule. The Administrator shall report to the Under Secretary. The Administrator shall designate an officer of the Service to act as Administrator in the event of the Administrator's absence or incapacity. The Director of the existing NTIS heretofore operating in DOC shall serve as Acting Administrator of the Service until the Administrator takes office.

The Committee intends that the new Administrator be given the day-to-day authority necessary to run the Service in a business-like manner. However, the Committee also intends that the Administrator report to the Under Secretary and Secretary and serve at the pleasure of the President.

New section 18 further establishes an Advisory Board of the Service which shall be composed of a chairman and 4 other members appointed by the Secretary. The members shall be appointed for terms of 5 years each; except that, of the members first appointed under this subsection other than the chairman, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, and one for a term of 4 years, as designated by the Secretary at the time of such appointment. Any person appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Each member of the Advisory Board shall be a citizen of the United States. Upon the expiration of his or her term of office a member shall continue to serve until the member's successor is appointed. In appointing members of the Advisory Board, the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and select individuals experienced in providing or utilizing technical information. The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Administrator with respect thereto.

The Advisory Board shall meet at the call of the Secretary, but not less often than once each 6 months. All official meetings of the Advisory Board shall be preceded by reasonable public notice and shall be open to public observation, except that the chairman may close a meeting to the public if it is probable that the meeting will include a discussion of competitive contracts or information or matters exempted from public disclosure pursuant to law.

Each member of the Advisory Board shall receive per diem compensation from funds available to the Service, at a rate not in excess of the per diem equivalent to the maximum rate of the General Schedule, when actually engaged in the performance of duties vested in the Advisory Board. Each member of the Advisory Board shall be reimbursed, in accordance with law and from funds available to the Service, for per diem, travel, subsistence, and other necessary expenses incurred by the member in the performance of such duties.

Furthermore, the Service's financial statements shall be audited annually in accordance with section 9105 of title 31, United States Code. The Administrator shall transmit an annual report to Congress.

Since the Service's employees will remain civil servants, the Service shall contribute to the Civil Service Retirement and Disability Fund such additional amounts as the Office of Personnel Management shall determine necessary to fund the full cost of benefits under the civil service retirement system for employees of the Service and their survivors. The Service shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments

made from such fund on account of the Service's employees. The annual billings shall also include a statement of the fair portion of the cost of administration of the respective funds, which shall be paid by the Service into the Treasury as miscellaneous receipts.

New section 18 also authorizes and directs the Service—

(1) to establish and maintain a permanent repository of non-classified scientific, technical, and engineering information;

(2) to cooperate and coordinate its operations with other government information programs;

(3) to make its bibliographic information products (including but not limited to catalogs, indexes, abstracts, and newsletters) available in a timely manner to depository libraries as a part of the Depository Library Program of the Government Printing Office;

(4) upon request and as appropriate, to provide technical assistance and services to Federal agencies;

(5) in conjunction with the private sector as appropriate, to collect, translate into English, and disseminate unclassified foreign scientific and technical information; and

(6) to implement new methods or media for the dissemination of scientific and technical information.

The Committee intends by this language that the Service carry out all functions currently performed by the existing NTIS. Among other functions, the Committee intends that the Service maintain archival functions; search for available scientific and technical information to add to its collection; encourage all Federal agencies to provide complete copies of all their non-classified, non-proprietary scientific and technical reports to the Service; and continue all NTIS agreements made with foreign governments regarding acquisition of foreign scientific and technical information. The Committee particularly directs the Service to continue NTIS responsibilities under the Japanese Technical Literature Act.

Finally, this section of the bill makes conforming amendments in section 9103 of title 31, U.S. Code, and section 5316 of title 5, U.S. Code.

SECTION 303—TRANSITIONAL PROVISIONS

Subsection (a) directs that the Service established under section 212 shall supersede and replace the existing NTIS, and shall assume and perform all functions heretofore vested in, delegated to, or otherwise being performed by the existing organization. All references to NTIS in any law, regulation, or document shall (from and after the effective date of this subtitle) be deemed to be references to the Service.

Subsection (b) provides that all personnel employed in connection with, and the assets, liabilities, contracts, records, unexpended balance of appropriations, authorization, allocations, and other funds which the Secretary determines to have been employed, held, used, arising from, available to, or to be made available in connection with, any functions of the existing NTIS which are vested in the Service by or pursuant to this title shall be transferred to the Service.

Subsection (c) provides that no suit, action, or other proceeding begun by or against any officer in his or her capacity as an officer of DOC or the Service shall abate by reason of the vesting of any function in the Service by or pursuant to this title. No cause of action by or against the Secretary, or by or against any officer of DOC, shall abate by reason of the vesting of any function in the Service by or pursuant to this title.

Subsection (d) states that all regulations issued by the existing NTIS, and all regulations issued by the Secretary of Commerce in connection with functions vested in the Service by or pursuant to this title, shall continue in effect until modified or repealed by the Service or the Secretary.

Subsection (e) provides that nothing in this title shall be construed to amend the Act of September 9, 1950 (15 U.S.C. 1151-1157), another statute dealing with NTIS.

SECTION 304—EFFECTIVE DATE

This section provides that the provisions of this title shall take effect on February 1, 1989.

TITLE IV—MISCELLANEOUS AMENDMENT TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SECTION 401—COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

This section provides technical amendments to section 11 of the Stevenson-Wydler Technology Innovation Act of 1980. Section 11, as amended by the Federal Technology Transfer Act of 1986, permits cooperated research agreements between Federal laboratories and research partners, particularly U.S. companies, and provides a legal framework for the intellectual property rights involved in such agreements. Section 11, which now applies only to inventions, is amended in this section to cover other intellectual property as well.

SECTION 402—REWARDS

This section amends section 12(1) of the Stevenson-Wydler Technology Innovation Act of 1980 by adding computer software development to the list of accomplishments for which a Federal agency may reward its scientific, engineering, and technical personnel.

SECTION 403—DISTRIBUTION OF ROYALTIES

This section amends section 13(a) of the Stevenson-Wydler Technology Innovation Act of 1980, a section (as amended earlier by the Federal Technology Transfer Act of 1986) governing the distribution of any royalties received by a Federal laboratory when it licenses a laboratory invention to a private company. The amendment deals with which types of inventors are eligible to receive a share of royalties. Current law authorizes a federal agency to share royalties with an inventor who was an employee of the agency at the time of the invention. These amendments would alter that authorization so that it would apply to any inventor who has assigned his or her rights in the invention to the United States. These

amendments are made retroactive to October 20, 1986, the date on which the President signed the Federal Technology Transfer Act of 1986.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in roman).

STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

Section 4 of that Act

SEC. 4. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "Office" means the Office of **Productivity, Technology, and Innovation** *Technology Policy* established under section 5 of this Act.

(2) * * *

[(3) "Assistant Secretary" means the Assistant Secretary for Productivity, Technology, and Innovation, appointed pursuant to section 5 of this Act.]

(3) "*Under Secretary*" means the *Under Secretary of Commerce for Technology* appointed under section 5(b)(1).

(4) through (12) * * *

Section 5 of that Act

SEC. 5. COMMERCE AND TECHNOLOGICAL INNOVATION.

[(a) IN GENERAL.—The Secretary shall establish and maintain an Office of Productivity, Technology, and Innovation in accordance with the provisions, findings, and purposes of this Act.]

[(b) ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate, an Assistant Secretary for Productivity, Technology, and Innovation.]

(a) *IN GENERAL.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—*

(1) the National Bureau of Standards;

(2) the National Technical Information Service;

(3) such other agencies, programs, and activities of the Department of Commerce as the Secretary of Commerce determines should be transferred to the Technology Administration; and

(4) a policy analysis office, which shall be known as the Office of Technology Policy.

(b) *UNDER SECRETARY; ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate—*

(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the

Executive Schedule in section 5314 of title 5, United States Code; and

(2) an Assistant Secretary of Commerce for Technology Policy, who shall be responsible for overall policy matters within the Administration and shall serve as policy adviser on such matters for the Under Secretary and Secretary.

(c) DUTIES.—The Secretary, through the [Assistant Secretary, on a continuing basis,] Under Secretary, as appropriate, shall—

(1) manage the Technology Administration and supervise its agencies, programs, and activities;

(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

(4) assist in the implementation of the Metric Conversion Act of 1975;

[1] *(5) determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;*

[2] *(6) determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;*

[3] *(7) identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;*

[4] *(8) assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;*

[5] *(9) propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;*

[6] *(10) provide that cooperative efforts to stimulate industrial innovation be undertaken between the [Assistant Secretary] Under Secretary and other officials in the Department of Commerce responsible for such areas as trade and economic assistance;*

[7] *(11) encourage and assist the creation of centers and other joint initiatives by State or local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology related industries;*

[8] *(12) propose and encourage cooperative research involving appropriate Federal entities, State or local governments,*

regional organizations, colleges or universities, nonprofit organizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;

[9] (13) consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin; and

[10] (14) publish the results of studies and policy experiments.

(d) **JAPANESE TECHNICAL LITERATURE.**—(1) In addition to the duties specified in subsection (c), the Secretary **[shall establish and, through the National Technical Information Service and]** *and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—*

* * * * *

(2) through (5) * * *

(e) * * *

(f) **COMMERCIAL SPACE PROGRAMS.**—*Nothing under this section authorizes the Department to establish an Office of Commercial Space Programs or to place such an Office into the Technology Administration without prior authorization of the Congress.*

Section 10 of that Act

SEC. 10. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) through (f) * * *

(g) **FUNCTIONS OF THE SECRETARY.**—(1) The Secretary, *through the Under Secretary, and in consultation with other Federal agencies, may—*

(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

(2) through (3) * * *

Section 11 of that Act

SEC. 11. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) **GENERAL AUTHORITY.**—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

(1) * * *

(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities for Government-owned inventions made **[at the laboratory and other inventions]** or *other intellectual property developed at the laboratory and other inventions or other intellectual property* of Federal employees that may be voluntarily assigned to the Government.

(b) **ENUMERATED AUTHORITY.**—Under agreements entered into pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

(1) through (2) * * *

(3) waive, subject to reservation by the Government of a non-exclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to subject invention made under the agreement by a collaborating party or employee of a collaborating party; **[and]**

(4) *determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and*

[(4)] (5) to the extent consistent with any applicable agency requirements and standards of conduct, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

(c) through (f) * * *

Section 12 of that Act

SEC. 12. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OR FEDERAL AGENCIES.

The head of each Federal agency that is making expenditures at a rate of more than \$50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

(1) inventions, innovations, *computer software*, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government, or

(2) * * *

Section 13 of that Act

SEC. 13. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

(a) **IN GENERAL.**—(1) Except as provided in paragraphs (2) and (4), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 11, and inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained

by the agency whose laboratory produced the invention and shall be disposed of as follows:

(A)(i) The head of the agency or his designee shall pay at least 15 percent of the royalties or other income the agency receives on account of any invention to the inventor (or co-inventors) if the inventor (or each such co-inventor) [was an employee of the agency at the time the invention was made], *has assigned his or her rights in the invention to the United States*. This clause shall take effect on the date of the enactment of this section unless the agency publishes a notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii).

(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors [who were employed by the agency at the time the invention was made and whose names appear on licensed inventions] *under clause (i)*. Such regulations must—

(I) through (IV) * * *

(B) * * *

(2) through (4) * * *

(b) through (c) * * *

Sections 18, 19, and 20 of that Act

SEC. 18. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) *ESTABLISHMENT OF CORPORATION.*—There is established a body corporate to be known as the National Technical Information Service (hereafter in this Act referred to as the "Service") under the direction and supervision of the Secretary. The Service shall be a wholly-owned Government corporation subject to chapter 91 of title 31, United States Code, and shall be deemed an executive agency for purposes of the Contract Disputes Act of 1978.

(b) *PERPETUAL SUCCESSION.*—The Service shall have perpetual succession unless dissolved by an Act of Congress.

(c) *PRINCIPAL OFFICE; VENUE.*—The Service shall have its principal office in the Washington, DC, metropolitan statistical area and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia. The Service may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(d) *POWERS.*—The Service shall have the following powers:

(1) to adopt, alter, and use a corporate seal;

(2) to adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of powers and duties granted to or imposed upon it by law;

(3) to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, or decedent's estates;

(4) to appoint and fix the compensation, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, governing classification and rates of pay, of such officers

and employees as may be necessary for the conduct of its business, define their authority and duties, and delegate to them such of the powers vested in the Service as its Administrator may decide without regard to any administratively imposed limits on the number or grade of personnel;

(5) as the service considers necessary for the efficient conduct of its business, subject to the Federal Property and Administrative Services Act of 1949—

(A) to acquire by purchase, lease, or donation such real or personal property, including capital equipment and inventories, or any interest therein, using receipts for work or services to be performed by the Service, and from other sources; and

(B) sell, lease, or otherwise dispose of such real and personal property;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes herein authorized;

(7) to enter into and perform such contracts, leases, cooperative agreements, joint ventures, and other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any foreign countries, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation; except that no contract for the purpose of obtaining funds or other financial instruments or assistance shall be entered into by or on behalf of the Service unless expressly authorized in this Act, and none of the activities or functions of the National Technical Information Service which were not being performed by contractors as of May 1, 1988, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute or unless the annual dollar value of any such contract is less than \$100,000 and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Technology, and Space of the House of Representatives have had at least 60 days to review such contract;

(8) to retain and utilize its revenues and receipts for any of the purposes of the Service, to invest funds of the Service in obligations of the United States, and to use all accrued proceeds from such investment for any of the purposes of the Service;

(9) to levy reasonable fees for its products and services so as to enable the Service to operate on a self-sustaining nonprofit basis without cost to the Treasury (but such fees may be waived for products or services furnished to any agency or instrumentality of the United States, or for publications which are distributed pursuant to reciprocal arrangements for the exchange of information or which are otherwise issued primarily for the general benefit of the public);

(10) to borrow money only from the Federal Financing Bank, in accordance with the provisions of the Federal Financing Bank Act of 1973, and to issue such obligations as it determines to be necessary to carry out the purposes of this section, except

that the amount of such obligations outstanding at any one time shall not exceed—

(A) for purposes related to the business of the Service, \$5,000,000; and

(B) for purposes of modernization of equipment, \$5,000,000 during the period beginning on the effective date of this section and ending at the close of September 30, 1990, and \$10,000,000 thereafter,

and except further that the authority provided in this paragraph shall be effective during any fiscal year only to such extent and in such amounts as are provided in advance in appropriations Acts;

(11) to determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this Act and other provisions of law specifically applicable to Government corporations;

(12) to execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

(13) to settle and adjust claims held by the Service against other persons or parties and claims by other persons or parties against the Service, subject to chapter 171 of title 28, United States Code;

(14) to enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the National Technical Information Service prior to the effective date of this section; and

(15) to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon the Service.

(e) ADMINISTRATOR OF THE SERVICE.—

(1) The management of the Service shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be compensated at the rate provided in level IV of the Executive Schedule in section 5316 of title 5, United States Code. The Administrator shall report to the Under Secretary.

(2) The Administrator shall designate an officer of the Service to act as Administrator in the event of the Administrator's absence or incapacity.

(3) The individual who served as Director of the National Technical Information Service immediately prior to the effective date of this section shall serve as Acting Administrator until the Administrator takes office.

(f) ADVISORY BOARD.—

(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary. The members shall be appointed for terms of 5 years each; except that, of the members first appointed under this subsection other than the chairman, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, and one for a term of 4 years, as designated by the Secretary at

the time of such appointment. Any person appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Each member of the Advisory Board shall be a citizen of the United States. Upon the expiration of his or her term of office a member shall continue to serve until the member's successor is appointed.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and advise the Secretary and the Administrator with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(5) All official meetings of the Advisory Board shall be preceded by reasonable public notice and shall be open to public observation; except that the chairman may close a meeting to the public if it is probable that the meeting will include a discussion of—

(A) information likely to impede full, free, and fair competition for contracts relating to goods or services purchased by or provided by the Service, or

(B) information or matters exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of section 552b(c) of title 5, United States Code.

(6) Each member of the Advisory Board shall receive per diem compensation from funds available to the Service, at a rate not in excess of the per diem equivalent to the maximum rate of the General Schedule, when actually engaged in the performance of duties vested in the Advisory Board. Each member of the Advisory Board shall be reimbursed, in accordance with section 5703 of title 5, United States Code (but from funds available to the Service), for per diem, travel, subsistence, and other necessary expenses incurred by the member in the performance of such duties.

(g) **AUDITS.**—The Service's financial statements shall be audited annually in accordance with section 9105 of title 31, United States Code.

(h) **OPERATIONS REPORT.**—Not later than 90 days following the close of each fiscal year, the Secretary shall transmit to the Congress a detailed report of the Service's operations during the previous year which shall include a summary of the Service's operating and financial performance, the report and recommendations of the auditor under subsection (g), and a summary of the Service's planned capital improvements.

(i) **CONTRIBUTIONS TO FUNDS.**—In addition to contributions required by sections 8334 and 8423 of title 5, United States Code, the Service shall contribute to the Civil Service Retirement and Disability Fund such additional amounts as the Office of Personnel Management shall determine necessary to fund the full cost of benefits under the civil service retirement system for employees of the

Service and their survivors. The Service shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Service's employees. The annual billings shall also include a statement of the fair portion of the cost of administration of the respective funds, which shall be paid by the Service into the Treasury as miscellaneous receipts.

(j) *FUNCTIONS.—The Service is authorized and directed—*

(1) to establish and maintain a permanent repository of non-classified scientific, technical, and engineering information;

(2) to cooperate and coordinate its operations with other Government information programs;

(3) to make its bibliographic information products (including but not limited to catalogs, indexes, abstracts, and newsletters) available in a timely manner to depository libraries as a part of the Depository Library Program of the Government Printing Office;

(4) upon request and as appropriate, to provide technical assistance and services to Federal agencies;

(5) in conjunction with the private sector as appropriate, to collect, translate into English, and disseminate unclassified foreign scientific and technical information; and

(6) to implement new methods or media for the dissemination of scientific and technical information.

SEC. [18] 19. AUTHORIZATION OF APPROPRIATIONS.

(a) through (d) * * *

SEC. [19] 20. SPENDING AUTHORITY.

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TITLE 5, UNITED STATES CODE

Section 5314 of that Title

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * *

Executive Director, Federal Retirement Thrift Investment Board.

Deputy Under Secretary of Defense for Acquisition.

Under Secretary of Commerce for Technology.

Section 5316 of that Title

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate de-

terminated with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title.

Administrator, Agricultural Marketing Service, Department of Agriculture.

Administrator, Agricultural Research Service, Department of Agriculture.

* * * * *

Associate Deputy Secretary, Department of Transportation.

Chief Scientist, National Oceanic and Atmospheric Administration.

Administrator of National Technical Information Service, Department of Commerce.

TITLE 31, UNITED STATES CODE

Section 9101 of that Title

§ 9101. Definitions

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) "mixed-ownership Government corporation" means—

* * * * *

(3) "wholly owned Government corporation" means—

(A) through (F) * * *

(G) *the National Technical Information Service.*

[(G)] (H) *the Overseas Private Investment Corporation.*

[(H)] (I) *the Pennsylvania Avenue Development Corporation.*

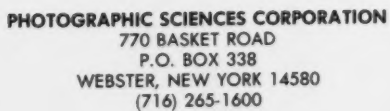
[(I)] (J) *the Pension Benefit Guaranty Corporation.*

[(J)] (K) *the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).*

[(K)] (L) *the Saint Lawrence Seaway Development Corporation.*

[(L)] (M) *the Secretary of Housing and Urban Development when carrying out duties and power related to the Federal Housing Administration Fund.*

[(M)] (N) *the Tennessee Valley Authority.*



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